

SRW/
05/19/22
01921.01

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO

BRENT A. WETTLE,
11229 Birch Pointe Dr.
Whitehouse, Ohio 43571

and

HEATHER M. WETTLE,
11229 Birch Pointe Dr.
Whitehouse, Ohio 43571

PLAINTIFFS,

v.

UNITED STATES POSTAL SERVICE
2200 Orange Avenue, Room 212
Cleveland, Ohio 44101-9331

and/or

UNITED STATES OF AMERICA

and

LINDSEY E. MCDONALD
608 Continental Blvd.
Toledo, OH 43607

DEFENDANTS.

* CASE NO. _____

*
* JUDGE _____

* **COMPLAINT WITH JURY DEMAND**
* **ENDORSED HEREON**

* Spitler & Williams-Young Co., L.P.A.
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* Sabrina R. Widman (0092259)
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* * * * *

Plaintiffs Brent A. Wettle and Heather M. Wettle, by and through their counsel,

Spitler & Williams-Young Co., L.P.A., Sabrina R. Widman and Marc G. Williams-Young, state the following for their complaint:

NATURE OF THIS ACTION

1. This case is brought by plaintiffs Brent A. Wettle and Heather M. Wettle against defendants the United States Postal Service and/or the United States of America and Lindsey E. McDonald. This case results from the negligent conduct of Ms. McDonald, an employee of the United States Postal Service, while she was acting within the scope of her official duties and employment by operating a federally owned vehicle at the intersection of Angola Road and Meilke Road in Spencer Township in Lucas County, Ohio. Plaintiffs seek redress against defendants for the damages they suffered by reason of such conduct.

JURISDICTION

2. The United States District Court for the Northern District of Ohio has original jurisdiction, pursuant to the Federal Tort Claims Act, over plaintiffs' federal claims or causes of action. The conduct of the federal actors about which plaintiffs complain represent either conduct or an omission which would be actionable were it between private parties. The actions about which plaintiffs complain were conducted by Lindsey E. McDonald, a federal employee of the United States Postal Service, while she was acting in the scope of her employment and official duties.

PROCEDURAL HISTORY

3. On or about June 21, 2021, plaintiff Brent A. Wettle (hereinafter 'plaintiff') timely filed an administrative tort claim with defendant United States Postal Service,

pursuant to the Federal Tort Claims Act, by way of a Form SF 95 - Claim for Damage, Injury or Death.

4. Plaintiff's administrative tort claim (hereinafter 'claim') was assigned USPS File No. TC2021 43768 and Case Number 440-19-00442643B.

5. By letter dated December 27, 2021, defendant United States Postal Service denied plaintiff's claim.

6. Due to that final denial, plaintiff timely files this lawsuit.

COUNT I

7. Plaintiff Brent A. Wettle and Plaintiff Heather M. Wettle were at all times mentioned, and remain, husband and wife. They are residents of Lucas County, Ohio; a county within the Federal Northern District of Ohio.

8. Defendant the United States Postal Service is an independent establishment of the executive branch of the United States government which, on or about June 22, 2019, was the owner of a 1992 Grumman mail vehicle with VIN 1GBCS10A1N2919057 and bearing Ohio license plate number 2211561.

9. On or about June 22, 2019, at approximately 12:12 p.m., defendant the United States Postal Service and/or the United States of America's Grumman mail vehicle was being operated by its employee, Lindsey E. McDonald (hereinafter 'defendant-employee'), in and about Lucas County, Ohio.

10. On or about June 22, 2019, plaintiff was driving his automobile approximately westbound on Angola Road in Spencer Township, Lucas County, Ohio.

11. On or about June 22, 2019, defendant-employee was driving the Grumman mail vehicle approximately southbound on Meilke Road in Spencer Township, Lucas

County, Ohio.

12. At the intersection of Angola Road and Meilke road, defendant-employee's travel was controlled by a stop sign requiring that she stop and yield the right-of-way before entering the intersection.

13. Defendant-employee proceeded into said intersection, and as she did so, plaintiff's vehicle was either in the intersection or approaching the intersection so closely as to constitute an immediate hazard during the time defendant-employee entered the intersection.

14. Defendant-employee proceeded into said intersection directly into the path and/or lane of travel of plaintiff's automobile and a collision occurred between the two vehicles.

15. Defendant-employee failed to yield the right-of-way in violation of Section 4511.43, Ohio Revised Code.

16. Said collision was caused solely by the *per se* negligence of defendant-employee in failing to operate her motor vehicle to give the right of way to plaintiff's motor vehicle, as required by the foregoing statutory provision.

17. As a direct or proximate result of the collision and defendant-employee's negligence, plaintiff sustained serious, lasting and/or permanent injuries.

18. Plaintiff has, as a direct or proximate result of said injuries, been required to undergo extensive medical treatment and has incurred substantial medical, hospital, and/or pharmaceutical expenses to date and/or will incur substantial, medical, hospital and/or pharmaceutical expenses in the future.

19. Plaintiff has further, as a direct or proximate result of said injuries, endured

great pain, suffering, anxiety, loss of full enjoyment of life and mental anguish and/or will continue to endure such pain, suffering, anxiety, loss of full enjoyment of life and mental anguish.

20. Plaintiff has further, as a direct or proximate result of the collision incurred expenses and costs related to the damage to his vehicle.

21. The collision and injuries resulting to plaintiff were caused without any negligence on the part of the plaintiff contributing thereto.

COUNT II

22. Plaintiffs restate paragraphs one (1) through twenty-one (21) as if fully rewritten herein.

23. Defendant-employee owed the plaintiff a duty of care to reasonably apprehend, observe and heed the road and traffic conditions then and there existing and to exercise due and proper care and diligence to avoid said accident and collision.

24. Said collision was caused solely by the negligence of defendant-employee in failing to reasonably apprehend, observe and heed the road and traffic conditions then and there existing and in failing to exercise due and proper care and diligence to avoid said accident and collision.

25. As a direct or proximate of said negligence, plaintiff sustained the injuries and damages as above outlined.

COUNT III

26. Plaintiffs restate paragraphs one (1) through twenty-five (25) as if fully rewritten herein.

27. Defendant the United States Postal Service and/or the United States of America is vicariously liable to plaintiff for the injuries sustained on the theory of *respondeat superior* as the employer of the defendant-employee who acted negligently as above outlined.

28. As a direct or proximate result of the collision and defendant-employee's negligence, plaintiff sustained the injuries and damages above outlined for which defendant the United States Postal Service and/or the United States of America is liable.

COUNT IV

29. Plaintiffs restate paragraphs one (1) through twenty-eight (28) as if fully rewritten herein.

30. Plaintiff Heather M. Wettle, as a result of the injuries to plaintiff, has and will continue to be deprived of the normal services, society, counsel, love and consortia which she would have enjoyed but for the collision and injuries to plaintiff.

31. Such injuries and losses incurred by plaintiff Heather M. Wettle are a direct or proximate result of defendant-employee's conduct as above outlined.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Brent A. Wettle and Heather M. Wettle demand judgment against Defendants the United States Postal Service and/or the United States of America and Lindsey E. McDonald in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00) in compensatory and special damages; and further request attorney fees, costs, and such other and further relief as this court shall deem fair, necessary, proper and equitable.

Respectfully submitted,

Spitler & Williams-Young Co., L.P.A.

By 
Sabrina R. Widman

JURY DEMAND

Plaintiffs Brent A. Wettle and Heather M. Wettle respectfully request a trial by a jury of eight (8) on all issues so triable.

Respectfully requested,

Spitler & Williams-Young Co., L.P.A.

By 
Sabrina R. Widman